

Subject.

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4 March 1949

**OGC HAS REVIEWED.**

MEMORANDUM TO THE DIRECTOR

FROM: Office of General Counsel

1. Returned herewith is the memorandum from Captain [REDACTED] dated 17 February 1949, concerning excess freight charges on the household effects of [REDACTED], with our comments.

2. It seems very clear that under existing regulations the excess freight is not payable. The claim as stated requests relief under [REDACTED] which authorizes the Executive to approve expenditures where an individual suffers loss by reason of emergencies arising out of his service with G.I.A. In our opinion we do not feel this case comes within this authority. The record discloses no emergency, and it is felt that this is not the type of situation contemplated for reimbursement under [REDACTED]

3. There is a possible alternate ground on which this claim could be considered, which is not covered in [REDACTED]

Circumstances are cited which indicate that [REDACTED] was furnished with the recommendation that the [REDACTED] was approved as to Security and had, in the past, performed satisfactory service for overseas travelers. Acting on this recommendation and, it is stated, because of his security-mindedness, he felt obliged to call [REDACTED] to do the job. It is also stated that despite protest to [REDACTED] during the process of packing, [REDACTED] was packed overweight to the extent of \$363.90 in freight charges although [REDACTED] had allowed himself a margin of 2500 lbs. which he had been assured by a reputable packer in his home town, would be ample.

4. In view of the above it is possible that the special requirements of this organization in connection with Security could be construed as imposing some responsibility on CIA.

5. In our opinion, the rules governing such a construction would be applied to this case as follows:

(1) It should be established that the Agency at that time required designees to go to packers who were security cleared;

(2) That [REDACTED] was the only security cleared packer whose name was given by the Agency to [REDACTED]

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(3) That [REDACTED] was therefore constrained by the Agency to use [REDACTED]

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(4) That the Agency, through one or more of its employees, knew or should have known that [REDACTED] was inefficient and incompetent.

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If these features were established, there would, in our opinion, be a sufficient chain of causation to satisfy the normal tort liability. It should be noted that such a determination might imply the liability not only for excess weight charges, but for damage to [REDACTED] personal possessions. This would be a distinct departure from the normal rule that the transportation of household goods and effects is a personal concern of the traveller, and a determination favorable to [REDACTED] could not be considered a precedent for other cases involving excess charges or damage in transportation.

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LAWRENCE R. HOUSTON  
General Counsel

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